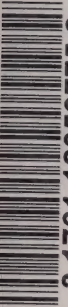
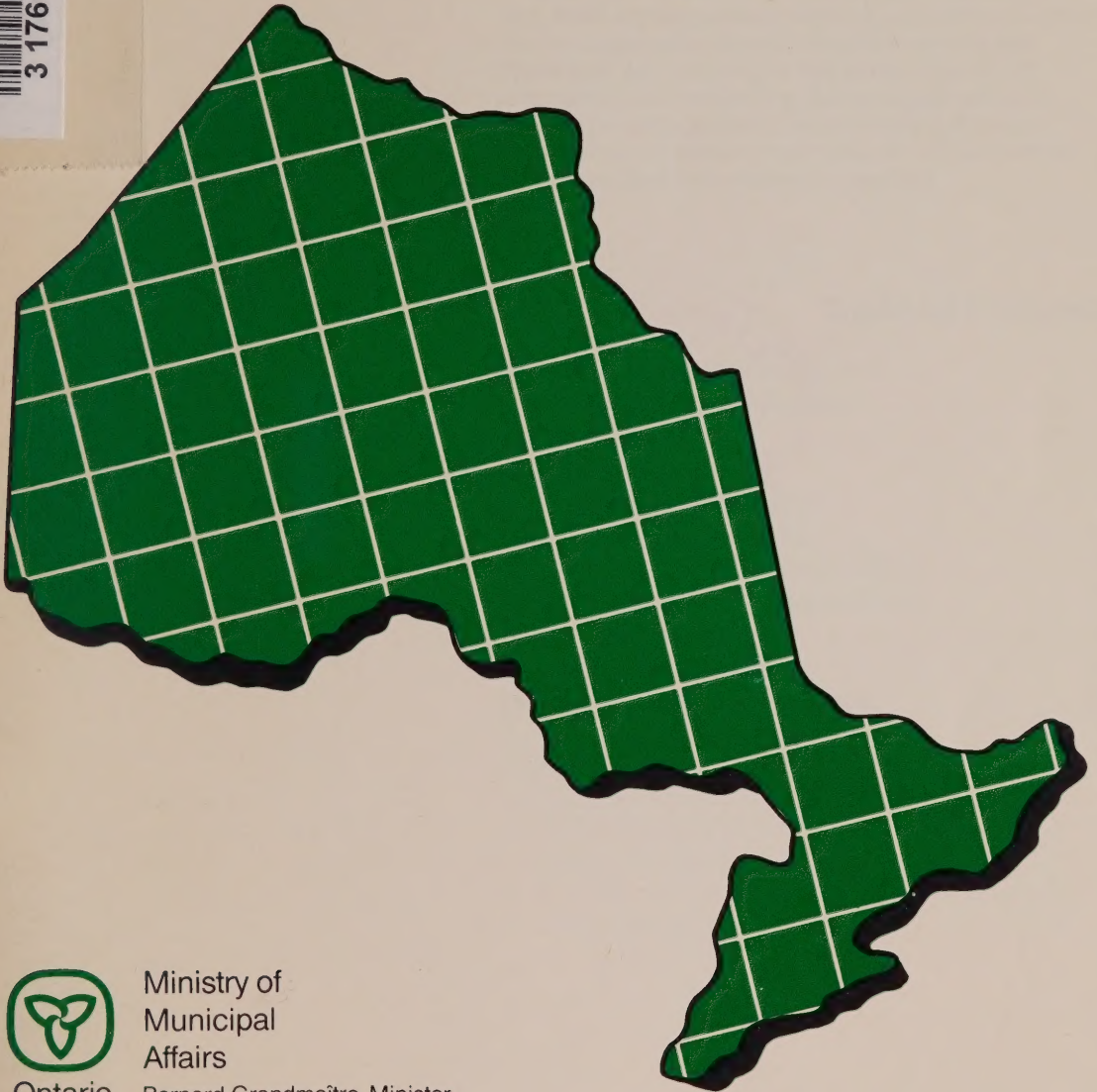


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GUIDE TO THE MUNICIPAL BOUNDARY NEGOTIATIONS ACT



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Ontario

Ministry of
Municipal
Affairs

Bernard Grandmaître, Minister



Introduction

The purpose of this guide is to outline in a simple way how the **Municipal Boundary Negotiations Act, 1981** will be administered and answer some of the more common questions that the legislation has raised.

This guide is not a substitute for reference to the **Municipal Boundary Negotiations Act, 1981** or to any other provincial statute, order or regulation. It is not an exhaustive statement of the boundary negotiation process but a simplified guide to the administration of the basic statutory provisions.

Although the **Municipal Boundary Negotiations Act, 1981** replaced most of the annexation and all of the amalgamation procedures formerly in the **Municipal Act**, nothing in this guide should be interpreted as presuming that an application to resolve boundary and boundary-related issues necessarily will result in the transfer of lands from one municipal jurisdiction to another.

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BOUNDARY NEGOTIATION PROCESS

What is the Municipal Boundary Negotiations Act, 1981?

An Act that was proclaimed in force on February 1, 1982, to facilitate the resolution of municipal boundary and boundary-related issues.

What is the purpose of the Act?

To provide a new method for municipalities to resolve boundary and boundary-related issues using negotiating techniques.

Why a new approach?

The Government responded to requests from both urban and rural municipalities to develop a process that would be less costly, less legalistic and less adversarial and that could provide a greater degree of accountability by the municipal councils who are responsible for governing their communities.

What municipalities are covered by the Act? Which are exempt?

The Act governs most applications by local municipalities for changes to boundaries (annexation or amalgamation) and the resolution of related issues.

Municipal councils may apply to enter the process under the Act in all situations except these two:

- a) A municipality in Northern Ontario wishing to annex unorganized territory is not covered by this legislation. It must make an application to the OMB under section 14(12) of the Municipal Act.
- b) Major changes to the boundaries of area municipalities within a region, Metropolitan Toronto, the District Municipality of Muskoka, or the County of Oxford are implemented by changes to their area's legislation.

However, the Minister may allow the application of this Act if he determines that the issue or issues involved are of a minor nature. (section 3(1))

What is an example of an issue that is of a minor nature?

Changes to boundaries between area municipalities within a regional municipality are apt to be minor if the boundary adjustment is modest in hectareage and/or scope, consistent with Provincial interests, relatively slight in terms of financial implications or shift of assessment, and already agreed upon among the municipalities (including the upper tier municipality) or else easily amenable to agreement.

Can a neighbouring municipality refuse to participate in the process?

No. A neighbouring municipality is expected to co-operate during the fact finding stage by providing facts and opinions pertinent to the issues. Further, its participation in negotiations is mandatory if the Minister determines that negotiations should take place. This is unchanged from the former process involving annexation applications before the OMB, where if one municipality made an application, the other municipality(ies) was automatically involved in the hearing. (sections 5, 6(2) and 8(2))

What is the essence of the boundary negotiation process?

It is a process that focuses on municipal council representatives of two or more neighbouring municipalities discussing and arriving at solutions to their boundary and boundary-related issues. (section 6(1)(c))

What are the main elements of the process?

- | | |
|---------------------------------|---|
| a) Orientation | explanation of how the process works and what can be expected; |
| b) Application | a by-law to initiate the procedures under the Municipal Boundary Negotiations Act, 1981 ; (section 2) |
| c) Fact Finding | identification of the issues and the municipalities most affected; (section 4(1)) |
| d) Negotiations | intermunicipal discussion of the issues; (section 6(1)(c)) |
| e) Recommendation for Agreement | a recommendation for agreement developed and signed by the Negotiating Committee; (section 11(1)(c)(iii)) |
| f) Public Consultation | opportunities for public consultation (section 12(1) (a,b)) |
| g) Council Consideration | review of Recommendation for Agreement by the Councils involved and formal written opinion on the issues to the Minister; (section 12(c)) |
| h) Implementation | Ministerial recommendation to the Lieutenant-Governor-in-Council to implement by an Order-in-Council any agreement reached by the parties. (section 14) |

ORIENTATION AND APPLICATION

How does a municipality start the process?

It passes a by-law requesting the Minister of Municipal Affairs and Housing to initiate the procedures outlined in the **Municipal Boundary Negotiations Act, 1981**. (section 2)

What should a municipality be aware of when making an application?

The applicant (initiating municipality) should note the following:

- a) although an application will likely raise the possibility of an annexation of land, the application itself need not identify specific parcels or quantities of lands, as such matters will normally be subject to negotiation by the parties;
- b) the application should identify intermunicipal boundary and boundary-related issues of concern to the applicant municipality;
- c) the applicant municipality may also wish to suggest or propose those local/county municipalities that would appear to the applicant to have an interest in the issues raised by the application; and,
- d) the municipal solicitor may be consulted in connection with drafting an application by-law that complies with the requirements of the **Municipal Boundary Negotiations Act, 1981**.

Is it enough to send in a by-law?

The Act provides that an application be made by by-law. It is suggested, however, that the application by-law be accompanied by a covering letter that outlines the background and relevant facts, including a list of those municipalities that are aware of the application. (section 2)

What response is required from a potentially affected municipality?

No response is required at the time a municipality initiates an application. In due course, a provincial fact finder may be appointed who would contact all affected municipalities. (section 4(1))

What if there is an agreement at the outset?

In some cases, the neighbouring municipalities may already be agreed on how to resolve their boundary issue (e.g., a small annexation of vacant land to straighten a boundary) or may be able to reduce their agreement to writing almost immediately. In such instances, an "uncontested" boundary issue settlement process can be used. To use this procedure, it would be desirable to bring the Municipal Boundaries Branch into the discussions at the earliest possible opportunity in order to ensure that the local agreement includes all the necessary clauses and recognizes realistic deadlines for implementation. It will still be necessary to make a formal application under the Act. (section 2)

Where should the original application be sent?

The Minister
Ministry of Municipal Affairs
17th Floor
777 Bay Street
Toronto, Ontario
M5G 2E5

The complete application submission should be forwarded to the Minister, with a copy to the clerk of any municipality that the applicant perceives as having an interest in the application.

What is the Minister's response upon receipt of an application?

In most cases, the Minister authorizes a fact-finding inquiry. (section 4(1))

FACT FINDING

What is the fact-finding inquiry?

Section 4 of the Act provides that, after an application has been received: "...the Minister may determine and inquire into the issues raised by the application, determine the party municipalities, obtain the opinion of any local board that the Minister considers is affected by the application, and send to the clerk of each party municipality a report setting out the issues, the party municipalities and such other matters as the Minister considers appropriate." (section 4(1))

The Minister is required to obtain the opinion of any school board that he considers to be affected by the application. (section 4(2))

How is the fact finding carried out?

In most cases, one or more provincial civil servants known as Fact Finders are assigned to discuss the application with all municipalities that may be affected by it.

What does the Fact Finder do, after the Minister appoints him (or her)?

The Fact Finder can be expected to:

- a) contact the applicant municipality to determine the nature of the issue(s); contact other municipalities affected by those issues and determine their response to the issues; and, if necessary, re-contact one or more municipalities (including the applicant municipality) to narrow or better define each issue;
- b) research the facts pertaining to the issues;
- c) contact the county, school boards and any other local board or agency that might be affected;
- d) contact provincial ministries and agencies having an interest in the issues;
- e) ascertain the extent of public awareness of the issues raised by the application;
- f) make recommendations to the Minister concerning the disposition of the application.

How does the Fact Finder decide what the issues are?

The Fact Finder begins with the issues identified by the applicant municipality. He will clarify these issues as well as address matters suggested by other potentially affected municipalities. At the end of the inquiry, the Fact Finder summarizes the issues and makes recommendations to the Minister.

What are examples of issues?

- a) perceived need for land for growth (i.e., a municipality under development pressure has run out of land);
- b) rationalization of boundaries (i.e., there is a desire for the urban municipality to cover the area of urban services);
- c) development matters (mainly, where destructive development competition is occurring, or about to occur, between an urban municipality and a surrounding rural township).

Additional issues could include:

- a) servicing problems/disputes
- b) cost-sharing arrangements

What is the outcome of the fact-finding inquiry?

The opinions expressed by the affected municipalities and other pertinent information are reported to the Minister in the Fact Finder's report. The purpose of the fact-finding inquiry is to identify the issues raised by the applicant and of concern to the neighbouring municipalities. For this reason, the opinions of the party municipalities are among the most significant data collected during the inquiry, and are contained in the report.

What is a "party municipality"?

A party municipality is a municipality that the Minister determines to have a "substantial interest" in an issue raised by an application under the Act. (section 1(e))

How is a municipality named as a "party municipality"?

The Fact Finder talks to each municipal council that could have a significant interest in any of the issues under consideration. At the end of the inquiry, the Fact Finder makes a recommendation to the Minister concerning the municipalities that should be determined to be party municipalities, in respect of each issue. Although the applicant municipality and the other affected municipalities may have opinions about which municipalities should be "parties", the Minister ultimately determines which municipalities are the party municipalities. (section 4(1))

Does a party municipality have to make available to the Minister all information that is relevant to the issues raised?

Yes, the Act requires that all information a party municipality has in its possession, or to which it has access, be made available. (section 5)

Can a County be named a participant or “party”?

Yes, if the issue substantially affects the county or is considered to be of interest to it. A county could also be involved to co-ordinate the responses of several local municipalities affected by a city’s application.

What is the Minister’s Report?

The Minister sends a report, in the form of a letter, to the clerk of each municipality that he determines to be a party municipality. The report sets out the issues in general terms, the party municipalities in respect of each (or all) of the issues and indicates the Minister’s intentions with respect to authorizing negotiations. (section 4(1))

Is the report of the Minister and the report of the Fact Finder the same thing?

No. The Fact Finder’s report is a document prepared for the Minister which reviews the application in detail, outlines the apparent issues, identifies the affected municipalities and outlines the opinions of the municipalities, the public and local agencies.

The Fact Finder’s report is not generally made public; however, it is tabled with the Negotiating Committee at the outset of negotiations and forms the basis for beginning discussion of the issues.

The Minister’s report is a public document sent to the municipal clerk of each party municipality. It is the report referred to in section 4 of the Act. (section 4(1))

Does fact finding always lead to negotiations?

Not necessarily.

In “uncontested” applications, that is, where the parties have reached an accord before the application is made, there are no formal negotiations under the Act. (section 6(1) (b))

In the case of a “contested” application, the Minister may decide that an application is untimely or without merit. However, in most cases fact finding is likely to lead to negotiations. (section 6(1) (c) and (d))

NEGOTIATIONS

NEGOTIATION SESSIONS

How does the negotiation process get under way?

The Minister directs that the council of each party municipality appoint a specified number of members of council to negotiate and recommend agreements in respect of any intermunicipal boundary issue or boundary-related issue. (section 6(1) (c))

What happens if a party municipality fails to appoint members to the Negotiating Committee?

The Minister may appoint members from the municipal council involved. (section 6(2))

What are the basic ground rules for negotiations?

There are three basic elements.

First, the negotiators must act in good faith and make every reasonable effort to reach a mutually satisfactory resolution to the issues under consideration. (section 8(2))

Second, the Negotiating Committee makes its decision by consensus.

Third, the Negotiating Committee must agree on some basic procedures for the orderly conduct of negotiation meetings.

What is the role of the Chief Negotiator?

In addition to several specific statutory obligations, the Chief Negotiator is the Chairman of the Negotiating Committee and the mediator between the party municipalities. (sections 3 (2) and 11 (1,2))

In addition, the Chief Negotiator and the Negotiating Committee may be able to work out arrangements with local and provincial agencies to adjust or redesign existing procedures and programs in response to local needs, and in order to make the boundary settlement more generally acceptable to the parties and their residents.

What authority does the Chief Negotiator have?

The Chief Negotiator has the statutory powers set out in the **Municipal Boundary Negotiations Act, 1981**. In respect of the Negotiating Committee these powers include:

- the preparation and submission of reports to the Minister and to the Clerk of each party municipality. (section 11 (1) (c))
- the preparation of a negotiation timetable in the event the Negotiating Committee is unable to agree on a timetable. (section 11 (1) (b))
- acting as Chairman of the Negotiating Committee with all the powers inherent in the meaning of the word "Chairman", including setting rules of procedure (or ensuring that the Negotiating Committee does), preparing agendas and minutes and conducting the negotiating sessions. (section 11 (1) (a))

How large is the Negotiating Committee?

The Minister determines the number of members depending upon the number of party municipalities, the size of councils, and the complexity of the negotiations. In a case where there are only two municipalities involved, a typical negotiating committee would have three or five representatives from each municipality, together with the Chief Negotiator. (section 6 (1) (c))

How many municipalities can be involved in one set of negotiations?

The Minister determines the number. There would be as many municipalities as there are "party municipalities", i.e. municipalities with a substantial interest in an issue.

A municipality that has a substantial interest in only one or two issues would probably be named as a party municipality in respect of those issues and would participate in negotiations only when those issues were involved. (section 4 (1))

Can a municipality that is not initially a "party municipality" and that is not represented on the Negotiating Committee subsequently be appointed to the Negotiating Committee?

Yes, in accordance with the direction of the Minister. (section 11 (2))

Can anyone other than members of council act as as negotiators?

No. The negotiators must be members of council at the time of their appointment. (section 6(1) (c) and 6(2))

May other members of council or municipal staff attend the negotiation meetings?

Subject to the rules the negotiating committee may adopt for itself, yes. Experience has shown that senior staff are usually present to provide advice when necessary. Some municipalities have found it useful to permit other members of council to be present as observers during negotiations and to provide advice to their respective negotiators during caucus meetings.

How long do negotiations take?

This will vary depending upon the complexity of the issues. The parties themselves decide the schedule for negotiations, with the Chief Negotiator being empowered to establish a schedule if the parties cannot agree. A typical schedule might call for ten to twenty negotiating sessions spread over four to six months.

Can a School Board, Public Utilities Commission, Police Commission or other local Board sit on the Negotiating Committee?

No. These bodies cannot sit on the Negotiating Committee. They may, however, be invited to attend a Negotiating Committee session, in order to discuss or advise on an issue or proposal that may affect them.

Can interested persons or groups become involved in the negotiations?

Not at the negotiating table. The party municipalities are there to represent the interests of their residents and ratepayers, and any local concerns should be addressed to the municipal council involved.

How do the Negotiating Committee members keep their municipal councils informed?

The procedure depends on the preference of the council involved. It is important that the other members of council agree to respect the procedural rules adopted by the Negotiating Committee and the general requirements laid down in the Act.

In some cases, a municipality's negotiators are given a mandate to negotiate on behalf of their council, and to report back on a periodic basis. At council meetings they would comment on the progress of the negotiations and seek instructions or suggestions from council.

How are the negotiations conducted?

Formal negotiating sessions are held on a regular basis. Agenda items are based on the issues determined by the fact-finding inquiry, together with any new points or proposals that are raised during the negotiations.

Why should negotiations be conducted in camera?

Experience has shown that constant scrutiny, especially from potentially affected special interest groups and individuals, can deny negotiators the flexibility necessary to discuss ideas. Negotiators need the freedom to use a variety of bargaining techniques, to explore areas of potential common interest and compromise, and to alter their positions as required. Premature disclosure of discussions could lead to land speculation, unjustified public expectations, and unwarranted concerns as various settlement options are developed and/or rejected during the course of negotiations.

Are the members of the Negotiating Committee governed by conflict of interest legislation?

The Negotiating Committee is specifically exempted under the **Municipal Conflict of Interest Act, 1983**. The Negotiating Committee may wish to make its own rules if it sees any potential problems. Similarly, a municipal council should consider conflict of interest implications in selecting its appointees to the Negotiating Committee. **Municipal Conflict of Interest Act, 1983** (section 1 (g))

It should be noted, however, that the Negotiating Committee makes only recommendations to the affected councils. The decision is left to council, and council members are governed by conflict of interest legislation when acting as council members.

What are examples of negotiation procedural ground rules?

- a) identification of a spokesman by each negotiating team;
- b) determination of role of staff and observers;
- c) provision of a timetable for negotiations and target date for agreement;
- d) establishment of procedures for the conduct of meetings, including agendas, records of proceedings, notices, location of meetings and so on;
- e) use of caucus sessions;
- f) press relations and press liaison.

Is any information provided to the public during negotiations?

Yes. During negotiations regular press releases are issued to summarize the matters under discussion without giving specific details.

What options does the Minister have if negotiations collapse and substantial issues are unresolved?

The Minister has a range of options that include the following:

- submit to an Issues Review Panel any questions for the advice of the Panel; (section 10 (1,2))
- terminate further consideration of the application; (section 11 (1) (c) (iv))
- recommend that the unresolved matter(s) be referred to the Ontario Municipal Board as a stated issue for its advice or recommendation; (Ontario Municipal Board Act, Section 45)
- conduct a study to identify the issues and recommend a solution;
- recommend legislation to the Assembly to resolve matters.

COST OF NEGOTIATIONS

Who pays the direct costs of the negotiations?

The Ministry pays for such direct costs as secretarial services, meeting room rentals, stationery, postage, and so on, and the salaries, benefits and travelling expenses of provincial staff involved in negotiations.

What expenses must the municipalities bear?

Municipalities pay their own council members' expenses, staff salaries, and any research costs not authorized by the Negotiating Committee as a whole.

Who pays for studies and consultants?

Where the Negotiating Committee authorizes the hiring of consultants, these fees are shared between the party municipalities and the Province, on a 50/50 basis.

How is the "municipal" share divided up?

The sharing formula is agreed upon by the municipalities themselves. The normal approach is for a sharing of municipal costs based on the equalized assessment of the local municipalities involved. For example, if a city and a township were parties, and the city's equalized assessment was three times greater than the township's, the costs of a consultant's study might be allocated as follows:

City	—	\$3,000.
Township	—	1,000.
Ministry	—	<u>4,000.</u>
Total consultant's fee	—	\$8,000.

If municipalities fail to agree on boundary issues, and the Minister refers the matter to the OMB for its recommendations, will the Province assume a portion of the municipalities' legal and consulting costs?

No. In such a case, each party would be responsible for paying its own expenses associated with an OMB hearing.

PROVISION FOR EXTERNAL ADVICE

Does the Act provide for external advice?

Yes. There are three potential sources of advice:

1. An Issues Review Panel;
2. The use of consultants;
3. The referral of an issue(s) to the Ontario Municipal Board for its recommendation.

1. ISSUES REVIEW PANEL

What is an Issues Review Panel?

The Act requires the Minister to appoint an Issues Review Panel (IRP) of three for each set of negotiations. The parties usually recommend two persons for appointment to the IRP, with the Province nominating the third member. Its purpose is to assist the Negotiating Committee, Chief Negotiator or Minister in the event assistance is needed. (section 9 (2))

Who is appointed to the IRP?

The Act lays down no specific qualifications. To do the job well, however, an appointee should have the following attributes:

- a) **EXPERTISE:** The person should be recognized as being knowledgeable in municipal matters.
- b) **IMPARTIALITY:** An appointee should not be closely related to one of the party municipalities. A former mayor, or reeve, from a party municipality, or a consultant working for one municipality therefore would not usually be acceptable.
- c) **EXPERIENCE:** The person should be able to draw on past experience in examining any issues presented to the IRP. A well-rounded background in the municipal government field would be an obvious asset.

When does the IRP become involved?

There are three occasions when an IRP might become involved in reviewing a boundary issue.

First, the IRP might have a matter referred to it for an opinion, to guide the negotiators. The Chief Negotiator or the Negotiating Committee as a whole, could refer an issue, problem or study report to the IRP for an informal opinion. (section 10 (2))

Second, the IRP could have one or more issues referred to it by the Minister where, for example, a deadlock in negotiations has occurred. The Minister could then use the IRP's opinion to "restart" negotiations, or to guide him in his choice of alternatives where negotiations have been unsuccessful. (section 10 (1,2))

Third, the Cabinet may seek the advice of an Issues Review Panel with respect to any formal objection made under section 17(2) of the Act to the proposed Order-in-Council implementing the boundary-issue settlement. (section 18 (2))

2. USE OF CONSULTANTS

Can the Negotiating Committee employ consultants during the course of negotiations if studies pertaining to the issues are needed and are of the nature that require outside professional expertise?

Yes.

Under what circumstances can a consultant be employed?

If the Negotiating Committee can identify a need and agree on the terms of reference for a study.

Who pays for the services of a consultant?

As stated earlier in this guide, where the Negotiating Committee authorizes the hiring of consultants, the costs are shared between the party municipalities and the Province, on a 50/50 basis.

What are the basic procedures to employ a consultant?

Terms of reference are established and an invitation to submit a proposal is sent to at least three consultants selected by the Negotiating Committee to bid. The submissions are evaluated by the Negotiating Committee in terms of experience, ability to perform and price. Based on this, a consultant is hired.

What is the status of a consultant's report?

Usually it is used in an advisory capacity to the Negotiating Committee and provides a focus of expert advice in a specific field.

3. REFERRAL TO THE ONTARIO MUNICIPAL BOARD

Can a municipality still apply to the OMB for an annexation?

No. The OMB's jurisdiction in annexations is now limited to municipal applications to annex territory without municipal organization. However, the OMB has several important roles under the **Municipal Boundary Negotiations Act, 1981**. (sections 13(e) and 18(4))

When would the OMB most likely become involved under the Act?

There are two potential roles for the OMB.

First, if the councils of the party municipalities are unable to ratify an agreement, the Minister may refer the unresolved issue(s) to the OMB for a hearing and its recommendations. (section 13(c))

Second, if objections to the proposed Order-in-Council arising from the issues are received by the Cabinet, the Cabinet may refer them to the OMB to be heard, and to make recommendations concerning them. (section 18(4))

Does this mean that, if the municipalities fail to reach an inter-municipal agreement, or if objections are received, they end up before the OMB?

Not necessarily. Referral to the OMB is one of several options that the Minister and Cabinet have available to them under the Act. The objective remains to secure a reasonable settlement to boundary issues and, at the same time, to see that both individual interests and the overall public good are given fair and serious consideration. (sections 13(e) and 14(b))

When matters are referred to the OMB, does the OMB make a decision on what should be done?

Under the new legislation, the OMB does not decide boundary issues; it makes recommendations on how they might be resolved. Cabinet makes the final decision on what course of action should be taken to resolve boundary issues. (section 14(b))

RECOMMENDATION FOR AGREEMENT

What happens when the Negotiating Committee reaches an Agreement?

When the Negotiating Committee has agreed upon the resolution of all or as many of the issues as it can, it signs a document known as a Recommendation for Agreement. The document forms the substance of the Chief Negotiator's report to the Minister and to the Clerk of each party municipality. The Recommendation for Agreement may range in content from a complex set of statements on a variety of issues, to a recommendation to retain the status quo. (section 11 (1) (c) (ii) and (iii))

What happens if negotiations break down?

The Chief Negotiator makes every reasonable effort to mediate the disputed matters and to get the parties back to the negotiating table. If negotiations are not successful, the Chief Negotiator sends a report to the Minister and the Clerk of each party municipality indicating that no agreement has been achieved and identifies the extent of the disagreement. That report also summarizes the status of the negotiations and recommends alternative courses of action to the Minister for consideration. (section 11 (1) (c) (ii) (iv) and (v))

Who signs a Recommendation for Agreement?

The municipal representatives who are serving on the Negotiating Committee. (section 11 (1) (c) (iii))

What is the status of a Recommendation for Agreement?

It is not binding on the municipalities. Once the Recommendation for Agreement is signed by the negotiators, it is forwarded to the councils of the party municipalities for their consideration. It requires the adoption by by-law of each and every party municipality before it is binding on any one municipality.

What impact can the public have on a Recommendation for Agreement before a final Agreement is adopted?

After a Recommendation for Agreement is signed by a Negotiating Committee, it becomes a public document and is available for scrutiny and input. The Act provides that each municipal council must hold at least one public information meeting for the purpose of informing the public about the contents of the recommended agreement. This is to be followed by a council meeting to receive and consider the comments of the public. After these meetings, the council of each party municipality must review the whole matter at a regular or special council session and take a position on the issues. (section 12, (1) (a, b, c))

PUBLIC CONSULTATION

Does the public have an opportunity to participate in the process?

Yes. The Municipal Boundary Negotiations Act, 1981, expressly requires that the public be involved. (sections 12 (1) (a, b) and 17)

How and when are the views of the public taken into consideration?

The main vehicle for public "input" is through the elected representatives of the affected municipalities:

- a) In some boundary or boundary-related applications, the subject of a boundary change has been a well discussed issue within a municipality and views have been set forth in petitions, correspondence and press reports. Such views are well known to members of council and can be brought to the attention of the Fact Finder by the municipal councils involved;
- b) A municipality may invite residents and affected groups to make their views known in writing or at a public meeting, open house or council meeting;
- c) The Fact Finder may invite residents and affected groups to make their views known in writing;
- d) At the end of negotiations, and before any action is taken by the municipal councils, at least two separate public meetings are held. The first meeting or meetings serve to explain what the Negotiating Committee has recommended, and why, and what it means for the community and individual ratepayers. The second public meeting affords any interested person or group the opportunity to comment and to make submissions, before any action is taken by the municipal councils involved. Notice of these meetings is required to be published in a local newspaper at least fifteen days in advance of each meeting. (section 12 (1) (a,b) and 12(2))

Can a council propose changes to a Recommendation for Agreement as a result of public input?

Yes. Proposed changes may be referred to the Negotiating Committee for consideration. (section 12 (1) (c))

Does the public have other opportunities to make its concerns/objections known?

Yes. Before any Order is made by the Lieutenant Governor-in-Council, any person may file a notice of objection to the proposed issuance of the Order with the Clerk of the Executive Council, Legislative Building, Queen's Park, Toronto, within the advertised twenty-eight day period set aside for filing objections. (section 17 (1,2))

Is it necessary to involve a lawyer or other professionals in preparing and filing an objection?

No. A personal letter giving reasons for the objection is sufficient.

COUNCIL CONSIDERATION

Why is the Recommendation for Agreement sent to the councils involved for review and consideration?

Only municipal councils have the authority to approve, reject or suggest changes to recommendations made by their representatives on the Negotiating Committee.

What are the implications of making changes to the proposed Agreement?

If a council wishes to alter the recommendation of the Negotiating Committee, it should be aware that such action could lead to further changes being proposed by the councils of the other party municipalities.

In some instances, the process of amending the Recommendation for Agreement can be worked out with the concurrence of the other councils.

In the event that the Recommendation for Agreement cannot be adopted by a council without modifications, and the modifications cannot be agreed to by all councils, then the Recommendation for Agreement may be referred back to the Negotiating Committee for further consideration. (section 13 (b))

What happens when the councils of the party municipalities adopt the Recommendation for Agreement, either in its original form or with agreed upon amendments?

The council of each party municipality advises the Minister of its opinion on each issue negotiated and that it has reached an agreement with the other party municipalities. (section 12 (1) (c))

What happens when the councils are unable to ratify or adopt the Recommendation for Agreement?

The council of each municipality advises the Minister of the extent of disagreement on the issues negotiated. (section 12 (1) (c))

The Minister may:

- refer any issue not agreed upon back to the Negotiating Committee or to the municipal councils directly for further consideration; (section 13 (b))
- refer any issue not agreed upon to an Issues Review Panel for the advice of the Panel; (section 13 (c))
- terminate further consideration of the application; (section 13 (d))
- refer any issue to the Ontario Municipal Board to hear any party municipality and to make recommendations thereon; (section 13 (e))
- recommend to the Assembly legislation in respect of any of the issues raised by the application; (section 13 (f))
- take such other action as the Minister considers appropriate. (section 13 (g))

How and when does a Recommendation for Agreement become a binding Agreement between the party municipalities?

When all the party municipalities have, by by-law, adopted the Agreement and the Lieutenant Governor-in-Council has given effect to the Agreement by Order. (section 14 (a))

How long does an Agreement run?

There may not be an expiry date to the Agreement itself. A typical Agreement will probably include:

- clauses that provide for the occurrence of a single event;
- time-limited clauses that will be obvious on the face of them;
- clauses that authorize one or more party municipalities to do something, and which may or may not be time-limited.

IMPLEMENTING AN AGREEMENT

What procedural steps occur to implement an Agreement?

After the Minister has received the concurrence of the municipalities to the Agreement, the Minister may recommend to the Lieutenant Governor-in-Council the making of an Order to give effect to the Agreement. (section 14)

What can the Order deal with?

The Order can deal with any of the items listed in section 14 of the Act.

Examples include:

- annexation or amalgamation;
- a moratorium period on future annexation applications;
- the level or apportionment of expenditures for any joint municipal service or any service provided by a joint local board;
- special provision for the assessment of real property and preparation of assessment rolls for annexed areas;
- provision for by-laws to be continued, revised or repealed in annexed areas;
- provision for an arbitration process;
- adjustment of assets and liabilities, including unpaid taxes and the right to collect them.

Is notice given of the intention to make an Order?

Yes. The Clerk of the Executive Council gives notice by publishing the intention to make the Order in a newspaper having general circulation in the party municipalities. (section 17 (1) (2))

— NOTES —

For information contact:

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